HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT PETITION NO. 7005 OF 2005

BETWEEN

P.R. Subas Chandran

.....**Petitioner**

And

The State of Andhra Pradesh rep. by Principal Secretary, Home (Prisons-A) Department, Secretariat, Hyderabad & another

.....**Respondents**

::O R D E R::

Counsel for the Petitioner : Shri K. Ashok Reddy

Counsel for the Respondents : Government Pleader for

Home

Dated: 28.03.2006

Per G.S. SINGHVI, CJ

In this petition styled as public interest litigation, the petitioner has generally questioned the appointment of the members of the All India Police Service to the post of Director General-cum-Inspector General of Prisons on deputation.

In the writ petition filed by him, Shri Subas Chandran has detailed his achievements as social activist and a person who has been pursuing public causes through various means including by filing the writ petitions. He has highlighted the so-called disadvantages of posting an officer other than the one who is a member of prison service on the post of Director General-cum-Inspector General of Prisons. In paragraphs 19, 20 and 21 of the writ petition, the petitioner has highlighted the benefits of posting a member of a service in the highest post in the Department and pleaded that appointment of a member of Indian Police Service to the post of Director General of Police is highly detrimental to the department and to the public at large.

In the counter filed by Shri Paul Bhuyan, Special Chief Secretary to the Government, it has been averred that a person, who is appointed to head the Prisons Department, is given professional training and he is exposed to all aspects of Prison Administration. The deponent has further averred that the State of Andhra Pradesh has not expressed any difficulty on account of posting of the member of Indian Police Service as Director General-cum-Inspector General of Prisons.

We have heard learned counsel for the petitioner and learned Government Pleader for Home. Admittedly, recruitment to various posts in the Jail Department is regulated by The Andhra Pradesh Jail Service Rules, 1959 (for short 'the Rules') framed by the Governor, in exercise of the power vested in him under proviso to Article 309 of the Constitution. Rule 3 of these Rules lays down the method of appointment and identifies the appointing authorities. The post of Inspector General of Prisons and Director of Correctional Services appears at No. I in the table given below Rule 3. Column 2 of this table shows that the post of Inspector General of Prisons and Director of Correctional Services can be filled by appointing an officer belonging to All India Services or

by promotion from category II of Class (a) i.e. Deputy Inspector General of Prisons. It is thus clear that there are two alternative sources of recruitment to the post of Inspector General of Prisons and Director of Correctional Services. The petitioner has neither challenged the constitutional validity of Rule 3 nor he has pleaded that any particular officer has been appointed as Inspector General of Prisons and Director of Correctional Services due to extraneous reasons. It is also not his case that members of Indian Police Service are being posted as Inspector General of Prisons and Director of Correctional Services with the object of depriving the members of category II of Class (a) services of their legitimate right to be considered for appointment by promotion. Therefore, we have no hesitation to hold that the petitioner's challenge to the methodology adopted by the State Government for appointing Inspector General of Prisons and Director of Correctional Services is not well-founded.

We are further of the view that if any eligible member of the Jail Service is aggrieved by appointment of a member of Indian Police Service as Inspector General of Prisons and Director of Correctional Services, then he can file appropriate application/petition before the Andhra Pradesh Administrative Tribunal. In any case, in the face of Rule 3 of the Rules, an omnibus direction cannot be given by the Court against the appointment of the members of Indian Police Service as Inspector General of Prisons and Director of Correctional Services.

For the reasons stated above, the writ petition is dismissed.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

28.03.2006

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